

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, ET AL.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, ET AL.,

Defendants.

**Civil Action No. 1:17-CV-2989-
AT**

**COALITION PLAINTIFFS' BRIEF IN OPPOSITION TO THE MOTION
TO INTERVENE OF DEBORAH J. DAVIS**

The Motion of Deborah J. Davis to Intervene (Doc. 1706) to intervene should be denied because it is untimely and granting the motion would greatly prejudice the original parties to this action.

A. Legal Standard

A motion to intervene may not be granted unless the moving party shows, among other things, that the motion has been timely brought. The timeliness requirement applies whether intervention is sought as a matter of right under Rule 24(a) or permissively under Rule 24(b). Fed. R. Civ. P. 24(a) (“On timely motion”; 24(b) (“On timely motion....”). *See generally Blue Lake Recovery Co. v. Pugliese*, No. 1:10-CV-469-AT, 2022 WL 3699364, at * 5

(N.D. Ga., July 19, 2022) (denying motion to intervene as untimely). The requirement of a timely motion applies to anyone seeking to intervene – from a “Government Official or Agency,” Rule 24(b)(2), to a pro se movant like Ms. Davis. *Burke v. Ocwen Fin. Corp.*, 833 F. App’x 288, 289 (11th Cir. 2020) (affirming denial of pro se party’s motion to intervene).

B. Discussion

The Motion should be denied because it has not been timely brought. The relevant claims in this case have been pending for at least four years. *See* November 10, 2023, Opinion and Order (Doc. 1705 at 32-33 (describing the October 15, 2019 filing by both sets of Plaintiffs of claims asserting constitutional challenges to the BMD system)). Although Ms. Davis recites that her Motion is timely filed, she does not provide any reasons for her delay.

Moreover, even if there were some reasons for the delay, granting the motion would be extremely prejudicial as it would likely delay the trial in this case, which is set for January 9, 2024. The original parties to this action are in the pre-trial process which is based on the existing parties and claims. As the Court is aware, this is an enormous undertaking. The addition of a new party or a new claim would disrupt these efforts, delay the trial, and be highly prejudicial to the original parties to this action.

Because the Motion was not timely brought, and granting intervention would “unduly delay” and “prejudice the adjudication of the original parties’ rights,” Fed. R. Civ. P. 24(b)(3), it should be denied.¹

Coalition Plaintiffs are authorized to state that the Curling Plaintiffs join in opposing the Motion to Intervene.

Respectfully submitted this 15th day of November, 2023.

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¹ The other requirements for moving to intervene, which also have not been met, are set forth in *Burke*, 833 F. App’x at 289.

/s/ Cary Ichter

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CERTIFICATE OF COMPLIANCE AND SERVICE

I certify that (a) pursuant to LR 7.1(D), the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Century Schoolbook and a point size of 13 and (b) a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

In addition, I certify that I have emailed a copy of this pleading to Movant Davis, who is proceeding pro se, at davis980519@gmail.com.

This 15th day of November, 2023.

/s/ Bruce P. Brown
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